

AMENDED IN ASSEMBLY APRIL 27, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1275

Introduced by Assembly Member Frommer
(Principal coauthor: Assembly Member Cohn)

February 22, 2005

An act to add Chapter 1 (commencing with Section 15465) to Part 7.2 of Division 3 of Title 2 of the Government Code, and to amend Section 130060 of the Health and Safety Code, relating to financing hospital seismic safety programs, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1275, as amended, Frommer. Earthquake Safety and Hospital Preservation Bond Act.

The existing Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 requires design and construction standards for hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves, and that must be reasonably capable of providing services to the public after a disaster. The act requires the Office of Statewide Health Planning and Development (OSHPD) to approve or reject all plans for the construction or alteration of a hospital building. The act requires that, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life be used only for nonacute care hospital purposes. The act

authorizes OSHPD to grant a delay in this deadline upon a demonstration by the owner that compliance will result in a loss of health care capacity that may not be provided by other general acute care hospitals within a reasonable proximity. The act also authorizes OSHPD to grant a 5-year delay in this deadline to general acute care hospitals that meet certain requirements and establishes interim deadlines for these hospitals.

This bill would require the office to grant a delay to any hospital that has a ratio of hospital debt to capitalization above 50%, to be implemented only if the bond act proposed by this bill is not approved by the voters. The bill would provide that a delay granted pursuant to this provision shall remain in effect until the hospital no longer meets the eligibility requirements for the delay under these provisions, based on biannual audits.

This bill would require the office to extend for a 5-year period subsequent to the initial sale of bonds pursuant to the bill, but in no event beyond the year 2030, the deadlines established under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, to be implemented only if the voters approve the bond act proposed by this bill.

Under the California Health Facilities Financing Authority Act, there is a California Health Facilities Financing Authority, which is empowered to make loans from the continuously appropriated California Health Facilities Financing Authority Fund to nonprofit corporations or associations for financing or refinancing the acquisition, construction, or remodeling of health facilities.

Existing law contains general obligation bond acts to finance the construction of state correctional, educational, and water facilities.

This bill would enact the Earthquake Safety and Hospital Preservation Bond Act which, if adopted, would authorize, for purposes of financing a seismic safety program for nonprofit and public general acute care hospitals, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$5,000,000,000.

The bill would provide for submission of the bond act to the voters at the next ~~statewide~~ *general or direct primary* election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Hospitals in California face an ever increasing list of
4 regulatory requirements and cost pressures as part of their
5 operating obligations. Antiterrorist and security requirements
6 along with general disaster preparedness are a significant part of
7 hospitals' operating costs. In addition, shortages in steel, building
8 products, and the availability of supplies are seriously threatening
9 the ability of many hospitals to meet seismic retrofit
10 requirements, and ultimately, to remain in operation.

11 (2) Emergency services, trauma care, and other hospital
12 services suffer as hospitals prepare to meet the retrofit
13 requirements.

14 (3) Information and knowledge about seismic compliant
15 buildings obtained in the past decade were not known in 1994,
16 necessitating a reevaluation of how the retrofit requirements
17 affect timing, costs, and access to facilities. The rising cost of
18 hospital construction, state budget deficits, growing numbers of
19 uninsured Californians, and other cost pressures make it
20 necessary to provide financial support for hospitals that are vital
21 to the state's health care delivery system.

22 (b) It is the intent of the Legislature in enacting this act to do
23 both of the following:

24 (1) To preserve hospital services for all California residents
25 and to ensure that hospitals are able to comply with reasonable
26 design, construction, and safety standards.

27 (2) To ensure that the original seismic safety law enacted in
28 1973 is interpreted and implemented in such a way as to balance
29 safety and access to essential hospital services.

30 SEC. 2. Chapter 1 (commencing with Section 15465) is
31 added to Part 7.2 of Division 3 of Title 2 of the Government
32 Code, to read:

1 CHAPTER 1. EARTHQUAKE SAFETY AND HOSPITAL
2 PRESERVATION BOND ACT

3
4 Article 1. General Provisions
5

6 15465. This chapter shall be known and may be cited as the
7 Earthquake Safety and Hospital Preservation Bond Act.

8 15466. As used in this chapter, the following terms have the
9 following meanings:

10 (a) “Authority” means the California Health Facilities
11 Financing Authority established pursuant to Section 15431.

12 (b) “Committee” means the Earthquake Safety and Hospital
13 Preservation Finance Committee.

14 (c) “Fund” means the Earthquake Safety and Hospital
15 Preservation Fund.

16 (d) “Program” means the Earthquake Safety and Hospital
17 Preservation Program established pursuant to this chapter.

18
19 Article 2. Program
20

21 15467. The proceeds of bonds issued and sold pursuant to this
22 chapter shall be deposited in the Earthquake Safety and Hospital
23 Preservation Fund, which is hereby established in the State
24 Treasury and notwithstanding Section 13340 of the Government
25 Code continuously appropriated to the authority for purposes of
26 this chapter without regard to fiscal years.

27 15468. The purpose of the Earthquake Safety and Hospital
28 Preservation Program is to ensure that hospital services will
29 remain available to California residents, while also ensuring that
30 hospitals comply with seismic safety design and construction
31 standards, by assisting nonprofit and public general acute care
32 hospitals in complying with the Alfred E. Alquist Hospital
33 Facilities Seismic Safety Act of 1983, Chapter 1 (commencing
34 with Section 129675) of Part 7 of Division 107 of the Health and
35 Safety Code. The program provided for in this part is in the
36 public interest, serves a public purpose, and will promote the
37 health, welfare, and safety of the citizens of the state.

38 15469. (a) The authority may authorize the issuance of bonds
39 in an amount of up to five billion dollars (\$5,000,000,000).

1 (b) The actual cost to the authority to administer the program
2 shall not exceed one-half of 1 percent of the general obligation
3 bonds issued and shall be taken from the bonds' corpus.

4 15470. (a) Moneys in the fund shall be available for
5 expenditure by the authority for allocation to nonprofit and
6 public general acute care hospitals in accordance with this
7 chapter.

8 (b) The authority shall establish criteria, consistent with this
9 chapter, for the allocation of moneys to hospitals for retrofit or
10 construction projects necessary to bring the hospital in
11 compliance with seismic safety standards established under the
12 Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

13 (c) It is the intent of the Legislature that every nonprofit or
14 public hospital that seeks any funding from the state for meeting
15 seismic retrofit requirements maintain community benefit
16 practices consistent with both its tax-exempt status and the
17 following guidelines:

18 (1) Establish and maintain a financial assistance policy for
19 uninsured patients.

20 (2) Post notices in appropriate locations in the hospital setting
21 forth the availability of financial assistance for payment for
22 services rendered to low-income uninsured patients.

23 (3) Provide assistance to low-income patients in seeking
24 enrollment in government sponsored health insurance programs.

25 (d) *The authority shall undertake health impact analyses to*
26 *evaluate the services provided by the hospitals eligible for*
27 *assistance under this chapter. Particular emphasis shall be*
28 *placed on services provided by, and the needs of, small and rural*
29 *hospitals.*

30 15472. (a) A general acute care hospital, including, but not
31 limited to, a general acute care hospital licensed to provide
32 emergency services, that receives financial assistance from the
33 proceeds of bonds issued pursuant to this chapter shall be
34 required to provide, except as provided in subdivision (b), all of
35 those services for which it is licensed at the time it receives bond
36 proceeds, as follows:

37 (1) Until January 1, 2030, for retrofitted buildings.

38 (2) Until 20 years after the date that the buildings receive final
39 approval from the office, for newly constructed buildings.

(b) Any hospital receiving financial assistance from the proceeds of bonds issued pursuant to this chapter that fails to meet the conditions set forth in paragraphs (1) and (2) of subdivision (a), as applicable, shall reimburse the fund for that financial assistance. The amount to be reimbursed shall be based upon a pro ration of the amount received given the period of time the hospital was in service subsequent to the use of the financial assistance received. The authority shall establish the pro ration formula.

(c) Any hospital that received financial assistance from the proceeds of bonds issued pursuant to this chapter, that is sold prior to the fulfillment of its obligation pursuant to subdivision (a), shall require as a condition of the sale that the buyer agree to fulfill the remainder of the obligation.

Article 3. Fiscal Provisions

15474. Bonds in the total amount of five billion dollars (\$5,000,000,000), or so much thereof as is necessary, not including the amount of any refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

15475. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4), and all of the provisions of that law, except Section 16727 to the extent that it may conflict with this chapter, apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

15476. (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law of the bonds authorized by this chapter, the Earthquake Safety and

Hospital Preservation Finance Committee is hereby established. For purposes of this chapter, the Earthquake Safety and Hospital Preservation Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the authority is designated the “board.”

15477. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purpose of Article 2 (commencing with Section 15467) and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those purposes progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

15478. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

15479. Notwithstanding Section 13340, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 15480, appropriated without regard to fiscal years.

15480. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts

1 withdrawn shall be deposited in the fund. Any money made
2 available under this section shall be returned to the General Fund
3 from proceeds received from the sale of bonds for the purpose of
4 carrying out this chapter.

5 15481. All money deposited in the fund that is derived from
6 premium and accrued interest on bonds sold shall be reserved in
7 the fund and shall be available for transfer to the General Fund as
8 a credit to expenditures for bond interest.

9 15482. Pursuant to Chapter 4 (commencing with Section
10 16720) of Part 3 of Division 4, the cost of bond issuance shall be
11 paid out of the bond proceeds. These costs shall be shared
12 proportionally by each program funded through this bond act.

13 15483. The authority may request the Pooled Money
14 Investment Board to make a loan from the Pooled Money
15 Investment Account, including other authorized forms of interim
16 financing that include, but are not limited to, commercial paper,
17 in accordance with Section 16312, for purposes of carrying out
18 this chapter. The amount of the request shall not exceed the
19 amount of the unsold bonds that the committee, by resolution,
20 has authorized to be sold for the purpose of carrying out this
21 chapter. The authority shall execute any documents required by
22 the Pooled Money Investment Board to obtain and repay the
23 loan. Any amounts loaned shall be deposited in the fund to be
24 allocated by the board in accordance with this chapter.

25 15484. The bonds may be refunded in accordance with
26 Article 6 (commencing with Section 16780) of Chapter 4 of Part
27 3 of Division 4, which is a part of the State General Obligation
28 Bond Law. Approval by the voters of the state for the issuance of
29 the bonds described in this chapter includes the approval of the
30 issuance of any bonds issued to refund any bonds originally
31 issued under this chapter or any previously issued refunding
32 bonds.

33 15485. Notwithstanding any other provision of this chapter,
34 or of the State General Obligation Bond Law, if the Treasurer
35 sells bonds pursuant to this chapter that include a bond counsel
36 opinion to the effect that the interest on the bonds is excluded
37 from gross income for federal tax purposes, subject to designated
38 conditions, the Treasurer may maintain separate accounts for the
39 investment of bond proceeds and for the investment of earnings
40 on those proceeds. The Treasurer may use or direct the use of

1 those proceeds or earnings to pay any rebate, penalty, or other
2 payment required under federal law or take any other action with
3 respect to the investment and use of those bond proceeds
4 required or desirable under federal law to maintain the tax
5 exempt status of those bonds and to obtain any other advantage
6 under federal law on behalf of the funds of this state.

7 15486. The Legislature hereby finds and declares that,
8 inasmuch as the proceeds from the sale of bonds authorized by
9 this chapter are not “proceeds of taxes” as that term is used in
10 Article XIII B of the California Constitution, the disbursement of
11 these proceeds is not subject to the limitations imposed by that
12 article.

13 SEC. 3. Section 130060 of the Health and Safety Code is
14 amended to read:

15 130060. (a) (1) After January 1, 2008, any general acute
16 care hospital building that is determined to be a potential risk of
17 collapse or pose significant loss of life shall only be used for
18 nonacute care hospital purposes. A delay in this deadline may be
19 granted by the office upon a demonstration by the owner that
20 compliance will result in a loss of health care capacity that may
21 not be provided by other general acute care hospitals within a
22 reasonable proximity. In its request for an extension of the
23 deadline, a hospital shall state why the hospital is unable to
24 comply with the January 1, 2008, deadline requirement.

25 (2) Prior to granting an extension of the January 1, 2008,
26 deadline pursuant to this section, the office shall do all of the
27 following:

28 (A) Provide public notice of a hospital’s request for an
29 extension of the deadline. The notice, at a minimum, shall be
30 posted on the office’s Internet Web site, and shall include the
31 facility’s name and identification number, the status of the
32 request, and the beginning and ending dates of the comment
33 period, and shall advise the public of the opportunity to submit
34 public comments pursuant to subparagraph (C). The office shall
35 also provide notice of all requests for the deadline extension
36 directly to interested parties upon request of the interested
37 parties.

38 (B) Provide copies of extension requests to interested parties
39 within 10 working days to allow interested parties to review and
40 provide comment within the 45-day comment period. The copies

1 shall include those records that are available to the public
2 pursuant to the Public Records Act, Chapter 3.5 (commencing
3 with Section 6250) of Division 7 of Title 1 of the Government
4 Code.

5 (C) Allow the public to submit written comments on the
6 extension proposal for a period of not less than 45 days from the
7 date of the public notice.

8 (b) (1) It is the intent of the Legislature, in enacting this
9 subdivision, to facilitate the process of having more hospital
10 buildings in substantial compliance with this chapter and to take
11 nonconforming general acute care hospital inpatient buildings out
12 of service more quickly.

13 (2) The functional contiguous grouping of hospital buildings
14 of a general acute care hospital, each of which provides, as the
15 primary source, one or more of the hospital's eight basic services
16 as specified in subdivision (a) of Section 1250, may receive a
17 five-year extension of the January 1, 2008, deadline specified in
18 subdivision (a) of this section pursuant to this subdivision for
19 both structural and nonstructural requirements. A functional
20 contiguous grouping refers to buildings containing one or more
21 basic hospital services that are either attached or connected in a
22 way that is acceptable to the State Department of Health
23 Services. These buildings may be on either the existing site or a
24 new site.

25 (3) To receive the five-year extension, a single building
26 containing all of the basic services or at least one building within
27 the contiguous grouping of hospital buildings shall have obtained
28 a building permit prior to 1973 and this building shall be
29 evaluated and classified as a nonconforming, Structural
30 Performance Category 1 (SPC-1) building. The classification
31 shall be submitted to and accepted by the Office of Statewide
32 Health Planning and Development. The identified hospital
33 building shall be exempt from the requirement in subdivision (a)
34 until January 1, 2013, if the hospital agrees that the basic service
35 or services that were provided in that building shall be provided,
36 on or before January 1, 2013, as follows:

37 (A) Moved into an existing conforming Structural
38 Performance Category-3 (SPC-3), Structural Performance
39 Category-4 (SPC-4), or Structural Performance Category-5

(SPC-5) and Non-Structural Performance Category-4 (NPC-4) or Non-Structural Performance Category-5 (NPC-5) building.

(B) Relocated to a newly-built compliant SPC-5 and NPC-4 or NPC-5 building.

(C) Continued in the building if the building is retrofitted to a SPC-5 and NPC-4 or NPC-5 building.

(4) A five-year extension is also provided to a post 1973-building if the hospital owner informs the Office of Statewide Health Planning and Development that the building is classified as a SPC-1, SPC-3, or SPC-4 and will be closed to general acute care inpatient service use by January 1, 2013. The basic services in the building shall be relocated into a SPC-5 and NPC-4 or NPC-5 building by January 1, 2013.

(5) Any SPC-1 buildings, other than the building identified in paragraph (3) or (4), in the contiguous grouping of hospital buildings shall also be exempt from the requirement in subdivision (a) until January 1, 2013. However, on or before January 1, 2013, at a minimum, each of these buildings shall be retrofitted to a SPC-2 and NPC-3 building, or no longer be used for general acute care hospital inpatient services.

(c) On or before March 1, 2001, the office shall establish a schedule of interim work progress deadlines that hospitals shall be required to meet to be eligible for the extension specified in subdivision (b). To receive this extension, the hospital building or buildings shall meet the year 2002 nonstructural requirements.

(d) A hospital building that is eligible for an extension pursuant to this section shall meet the January 1, 2030, nonstructural and structural deadline requirements if the building is to be used for general acute care inpatient services after January 1, 2030.

(e) Upon compliance with this section, the hospital shall be issued a written notice of compliance by the office. The office shall send a written notice of violation to hospital owners that fail to comply with this section.

(f) If the Earthquake Safety and Hospital Preservation Bond Act proposed by the act that amended this subdivision is not approved by the voters, the office shall grant a delay to any *public or nonprofit* hospital that has a ratio of hospital debt to capitalization that is above 50 percent. For purposes of this subdivision, the following applies:

1 (1) “Debt” includes long- and short-term debt and
2 “capitalization” includes long- and short-term debt and
3 unrestricted net assets.

4 (2) In calculating debt to capitalization, the calculation shall be
5 made for an individual hospital that is not owned or operated as
6 part of a system of two or more hospitals and for a hospital
7 system by including all hospitals located in California. For a
8 hospital system with hospitals located outside of California, those
9 hospitals located outside of California shall be excluded from the
10 calculation.

11 (g) A delay granted pursuant to subdivision (f) shall remain in
12 effect until the hospital no longer meets the requirements of
13 subdivision (f) as determined during biannual audits.

14 (h) Notwithstanding any other provision of this section, if the
15 Earthquake Safety and Hospital Preservation Bond Act is
16 approved by the voters, all of the deadlines set forth in this
17 section, with the exception of the January 1, 2030, deadline under
18 subdivision (d), *applicable to a public or nonprofit hospital* shall
19 be extended for a five-year period subsequent to the initial sale of
20 bonds pursuant to Chapter 1 (commencing with Section 15465)
21 of Part 7.2 of Division 3 of Title 2 of the Government Code, but
22 in no event beyond the year 2030.

23 SEC. 4. Section 2 of this act shall take effect upon the
24 approval by the voters of the Earthquake Safety and Hospital
25 Preservation Bond Act, as set forth in Section 2 of this act.

26 SEC. 5. Section 2 of this act shall be submitted to the voters
27 at the next ~~statewide~~ *general or direct primary* election in
28 accordance with provisions of the Government Code and the
29 Elections Code governing the submission of a statewide measure
30 to the voters.

31 SEC. 6. (a) Notwithstanding any other provision of law, all
32 ballots of the election shall have printed thereon and in a square
33 thereof, the words: “Earthquake Safety and Hospital Preservation
34 Bond Act,” and in the same square under those words, the
35 following in 8-point type: “This act provides for a bond issue of
36 five billion dollars (\$5,000,000,000) to provide funds for a
37 hospital seismic safety financing program.” Opposite the square,
38 there shall be left spaces in which the voters may place a cross in
39 the manner required by law to indicate whether they vote for or
40 against the act.

1 (b) Where the voting in the election is done by means of
2 voting machines used pursuant to law in a manner that carries out
3 the intent of this section, the use of the voting machines and the
4 expression of the voter's choice by means thereof are in
5 compliance with this section.

O